

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1341 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 25-36.5-1-3 IS AMENDED TO READ AS
- 4 FOLLOWS: Sec. 3. (a) Every person registered as a timber buyer shall
- 5 file with the department an effective surety bond issued by a corporate
- 6 surety authorized to engage in the business of executing surety bonds
- 7 in Indiana.
- 8 (b) Instead of the bond required by subsection (a), the department
- 9 may accept security in cash or a certificate of deposit under terms
- 10 established by rule.
- 11 (c) The security required under subsection (a) or (b) shall be made
- 12 payable upon demand to the director, subject to this chapter, for the use
- 13 and benefit of the people of Indiana and for the use and benefit of any
- 14 timber grower from whom the applicant purchased and who is not paid
- 15 by the applicant or for the use and benefit of any timber grower whose
- 16 timber has been cut by the applicant or registrant or his agents, and
- 17 who has not been paid therefor.
- 18 (d) The security required under subsection (a) or (b) shall be in the
- 19 principal amount of two thousand dollars (\$2,000) for an applicant who
- 20 paid timber growers five thousand dollars (\$5,000) or less for timber
- 21 during the immediate preceding year, and an additional one hundred
- 22 dollars (\$100) for each additional one thousand dollars (\$1,000) or
- 23 fraction thereof paid to timber growers for timber purchased during the
- 24 preceding year, but shall not be more than twenty thousand dollars
- 25 (\$20,000). In the case of an applicant not previously engaged in
- 26 business as a timber buyer, the amount of such bond shall be based on
- 27 the estimated dollar amount to be paid by such timber buyer to timber

1 growers for timber purchased during the next succeeding year, as set
2 forth in the application.

3 (e) The security required under subsection (a) or (b) shall not be
4 cancelled or altered during the period for which the certificate to the
5 applicant was issued except upon at least sixty (60) days notice in
6 writing to the department.

7 (f) Security shall be in such form, contain such terms and
8 conditions as may be approved from time to time by the director, be
9 conditioned to secure an honest cutting and accounting for timber
10 purchased by the registrant, secure payment to the timber growers, and
11 insure the timber growers against all fraudulent acts of the registrant in
12 the purchase and cutting of the timber of this state.

13 (g) If a timber buyer fails to pay when due any amount due a
14 timber grower for timber purchased, or fails to pay legally determined
15 damages for timber wrongfully cut by a timber buyer or his agent, or
16 commits any violation of this chapter, an adjudicative proceeding on
17 the bond for forfeiture may be commenced, and notice of the
18 proceeding shall be provided, under IC 4-21.5-3-6. A surety or person
19 in possession of the security provided under subsection (a) or (b) is
20 entitled to notification of the proceeding. If a final agency action is
21 entered by the department under this subsection against the timber
22 buyer, the surety or other person in possession of the security shall
23 deliver the amount of the security identified in the order. A proceeding
24 for forfeiture of a timber buyer's bond under IC 4-21.5 is the exclusive
25 remedy under law for the forfeiture of the bond.

26 **(h) An owner of real estate seeking an injunction against a**
27 **person, corporation or other entity from the wrongful cutting of**
28 **timber on the owner's real estate is relieved from having to post a**
29 **bond. This provision does not pertain to any alleged wrongful**
30 **cutting between the property owner and any timber cutter or**
31 **timber buyer with whom the property owner had contracted to buy**
32 **and cut any timber."**

33 Renumber all SECTIONS consecutively.

(Reference is to HB 1341 as printed February 21, 2001.)

Representative STEELE